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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/790,479 03/01/2004 Darrell Reginald May 85002 9515

27975 7590 01/25/2008  
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.  
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE  
P.O. BOX 3791  
ORLANDO, FL 32802-3791

EXAMINER
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RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2617

NOTIFICATION DATE	DELIVERY MODE
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01/25/2008 ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

creganoa@addmg.com

## Office Action Summary

Application No.

10/790,479

Applicant(s)

MAY ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

I. The current office-action is in response to the remarks filed on 11/30/2007.

Accordingly, Claims 8, 15 are cancelled and Claims 1-7, 9-14 and 16-23 are imminent for further assessment as follows:

#### *Claim Rejections - 35 USC § 103*

II. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 4-7, 9-14 and 16-23 rejected under 35 U.S.C. 103(a) as being unpatentable over **Koskan** [US 6181956] in view of **Kuboyama et al.** [US 20040186728].

As per claims 1, 16, **Koskan** teaches:

A mobile wireless cellular communications device (Abstract, Col.2; 7-17) comprising:

A wireless cellular transceiver (120; Fig.2, Col.2; 18-38) and a controller (240; Fig.2, Col.2; 29-37, Col.2; 39-52) for cooperating therewith for receiving text messages from a wireless communications network; (Col.2; 39-52) and

When in the audio message mode, outputting at least one audio message comprising speech generated from at least one of the received text messages via said headset output. (Col.2; 39-63, Col.2; 64-Col.3; 15, Col.3; 32-38).

**Koskan** doesn't teach specifically, a headset output connected to said controller; said controller for switching between a normal message mode and a hands-free audio message mode based upon a connection between said headset output and a headset. However, **Kuboyama** teaches in an analogous art, that a headset (103; Fig.1, Paragraph 00052) output connected to said controller; said controller for switching between a normal message mode and a hands-free audio message mode based upon a connection between said headset output and a headset. (e.g. a switching control step of making output destination switching control that outputs the speech information corresponding to the text information to the audio output device when it is determined in the determination step that the audio output device is connected, and outputs the text information to the display means when it is determined in the determination step that the audio output device is not connected; Paragraph 0024-0025, 0052, 0074) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify **Koskan** including a headset output connected to said controller; said controller for switching between a normal message mode and a hands-free audio message mode based upon a connection between

said headset output and a headset in order to appropriately switching for providing information to the user in correspondence with an information acquisition environment of that user.

As per claims 2, 10, 17, 21, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, 16, 20, wherein said headset output comprises a wireless headset output for establishing a wireless connection with the headset. (120; Fig.1, Col.1; 62-66)

As per claims 4, 11, 18, 22, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, 16, 20, further comprising a user interface device connected to said controller, and wherein said controller switches to the audio message mode based upon an audio message mode command provided by a user via said user interface device. (250; Fig.2, Col.2; 29-37, Col.2; 64-Col.3; 15)

As per claim 5, **Koskan** teaches:

The mobile wireless communications device of claim 4 wherein said user interface device comprises a keypad connected to said controller. (255; Fig.2, Col.2; 29-37, Col.2; 64-Col.3; 15)

As per claims 6, 12, 19, 23, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, 16, 20, further comprising a text-to-speech module for cooperating with said controller to convert the at least one text message to the at least one audio message. (Col.3; 5-9, 32-38)

As per claims 7, 14, **Koskan** teaches:

The mobile wireless communications device of claims 1, 9, further comprising a display connected to said controller for displaying the text messages. (252; Fig.2, Col.2; 29-37, Col.3; 28-31)

*Claim 9* is the system claim corresponding to device claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

As per claim 13, **Koskan** teaches:

The communications system of claim 9 wherein said controller is also for generating a conversion request for the at least one text message and cooperating with the wireless transceiver to forward the conversion request to said wireless communications network; and wherein said wireless communications network receives the conversion request and further comprises a text-to-speech module for converting the at least one text message to the at least one audio message, and wherein said wireless communications network sends the at least one audio message to said at least one wireless communications device. (240; Fig.2, Col.2; 64-Col.3; 15, Col.3; 32-38)

*Claim 20* is the computer readable medium claim corresponding to device claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Koskan & Kuboyama** further in view of Zahavi et al. [US 6577859].

As per claim 3, the above combination teaches all the particulars of the claim except wherein said headset output comprises a headset jack for a wired headset. However, Zahavi teaches in an analogous art, that the mobile wireless communications device of claim 1 wherein said headset output comprises a headset jack for a wired headset. [24; Fig.2, Col.7; 46-50] Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the above combination including wherein said headset output comprises a headset jack for a wired headset in order to provide a system and method which allows a cellular phone user to communicate with a caller when the user is unable to speak aloud.

#### ***Response to Remarks***

III. Applicant's arguments filed on 11/30/2007 have been fully considered but they are not persuasive.

#### ***Relating to Claims 1-2, 4-7, 9-14 and 16-23:***

The declaration filed on 11/30/2007 under 37 CFR 1.131 has been considered but is insufficient to overcome the **Kuboyama** et al. [US 20040186728] reference.

The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the

**Kuboyama** et al. [US 20040186728] reference. The evidence submitted is insufficient to establish a conception of the invention, because the exhibits 1-6 have not adequate proof of inventive-materials for claimed-limitations, even though the exhibits includes the e-mail documents, but, technically, in comparison between the evidence and the present application, they are not sufficiently indicated the inventive-materials for claimed-limitations.

Hence, it is believed that **Kuboyama** *still teaches the claimed limitations*.

In view of the fact that, Applicant doesn't provide any argument about the rejection of above references, with the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

### ***Conclusion***

IV. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

[EBC@uspto.gov](mailto:EBC@uspto.gov).

/Sharad Rampuria/  
Patent Examiner  
Art Unit 2617